

cooperative, or any other private party.

(h) If a producer is eligible to receive payments under this part and benefits under any other program administered by the Secretary for the same losses, the producer must choose whether to receive the other program benefits or payments under this part, but shall not be eligible for both. The limitation on multiple benefits prohibits a producer from being compensated more than once for the same losses. If the other USDA program benefits are not available until after an application for benefits has been filed under this part, the producer may, to avoid this restriction on such other benefits, refund the total amount of the payment to the administrative FSA office from which the payment was received.

§ 1430.307 Rate of payment and limitations on funding.

(a) Subject to the availability of funds, the payment rate for eligible production and spoilage losses determined according to § 1430.306 is, depending on the State, the average monthly Mailbox milk price for the Florida, the Southeast, or the Appalachian States Marketing Orders as reported by the Agricultural Marketing Service during the months of August, September, and October of 2004. Maximum payment rates for eligible losses for dairy operations located in specific states are as follows:

(1) Florida—\$17.62 per hundredweight (\$0.1762 per pound).

(2) Alabama, Georgia, Louisiana, and Mississippi—\$16.26 per hundredweight (\$0.1626 per pound).

(3) North Carolina and South Carolina—\$15.59 per hundredweight (\$0.1559 per pound).

(b) Subject to the availability of funds, each eligible dairy operation's payment is calculated by multiplying the applicable payment rate under paragraph (a) of this section by the operation's total eligible losses. Where there are multiple producers in the dairy operation, individual producers' payments are disbursed according to each producer's share of the dairy operation's production as specified in the Application.

(c) If the total value of losses claimed under paragraph (b) of this section exceeds the \$10 million available for the 2004 Dairy Disaster Assistance Payment Program, less any reserve that may be created under paragraph (e) of this section, total eligible losses of individual dairy operations that, as calculated as an overall percentage for the full three month period, August–October 2004 (not a monthly average for any one month), are greater than 20 percent of the total base production for those three months will be paid at the maximum rate under paragraph (a) of this section to the extent available funding allows. A loss of over 20 percent in only one or two of the eligible months does not itself qualify for the maximum per-pound payment. Total eligible losses for a producer, as calculated under § 1430.306, of less than or equal to 20 percent during the eligibility period of August to October 2004 will be paid at a rate determined by dividing the eligible losses of less than 20 percent by the funds remaining after making payments for all eligible losses above the 20 percent threshold.

(d) In no event shall the payment exceed the value determined by multiplying the producer's total eligible loss times the average price received for commercial milk production in their area as defined in paragraph (a) of this section.

(e) A reserve may be created to handle claims that extend beyond the conclusion of the application period, but claims shall not be payable once the available funding is expended.

§ 1430.308 Availability of funds.

The total available program funds shall be \$10 million as provided by section 103 of Division B of Public Law 108–324.

§ 1430.309 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780. Appeals of determinations of ineligibility or payment amounts are subject to the limitations in §§ 1430.307 and 1430.308.